

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 798 OF 2015

SHRI CHRISTO FERNANDES.

... Petitioner

Versus

GOA INSTITUTE OF MANAGEMENT,
REPRESENTED BY ITS SECRETARY
MR.PETER F.X. D'LIMA AND ANR.,

... Respondents

Mr. G. Sardesai and Ms. Shannon Pereira, Advocates for the
Petitioner.

Mr. R. G. Ramani, Advocate for the Respondent no. 1.

Ms. Purna Bhandari, Addl. Government Advocate for the Respondent
no. 2.

Coram:- F. M. REIS &
C. V. BHADANG, JJ.

Date:- 26th November, 2015

P.C.

Heard Shri Sardesai, learned Counsel appearing for the Petitioner,
Mr. R. G. Ramani, learned Counsel appearing for the Respondent no.
1 and Ms. Purna Bhandari, learned Addl. Government Advocate
appearing for the Respondent no. 2.

2. It is undisputed that an Inquiry Officer is appointed and the date
of Inquiry has already been fixed. It is further undisputed that the
Petitioner is being paid subsistence allowance at the rate of fifty
percent of the salary. Shri Ramani, learned Counsel for the
Respondent no. 1 submits that the subsistence allowance is paid upto
October 2015 and shall be continued to be paid.

3. Having regard to the fact that the Inquiry Officer is already appointed and the date of the Inquiry is fixed, learned Counsel appearing for the Petitioner does not want to press for the challenge to the issuance of the chargesheet as also to the impugned Order of suspension dated 11.02.2015. He further submits that the inquiry be directed to be conducted expeditiously in a time bound period. Shri R. G. Ramani, learned Counsel appearing for the Respondent no. 1 submits that subject to the Petitioner co-operating for the early disposal of the inquiry, appropriate orders be passed.

4. Learned Counsel appearing for the Petitioner has brought to our notice the Judgment of the Hon'ble Supreme Court in the case of T. M. A. Pai Foundation vs. State of Karnataka reported in (2002) 8 SCC 481 and the decision in the case of Ramesh Ahluwalia vs. State of Punjab & Ors. reported in (2012) 12 SCC 331, in order to submit that the State Government despite the directions of the Hon'ble Supreme Court, has not constituted an Appellate Tribunal to hear Appeals over the decisions taken by the disciplinary bodies of private unaided educational institutions. Learned Counsel further submits that appropriate directions in this regard be issued.

5. Learned Government Advocate appearing for the Respondent no. 2 submits that the State Government shall consider the same and shall take appropriate decision in the matter.

6. On hearing the learned Counsel appearing for the parties and on perusal of the record, we find that there is already a direction of the Hon'ble Supreme Court which is passed as far back as in the year 2002 and thereafter again in the year 2012 directing the State Government to constitute Appellate Tribunal to hear Appeals over the decisions taken by the Disciplinary Authorities.

7. In that view of the matter, we do not find that any further directions are necessary in this regard. Suffice it to mention, that the State Government shall consider the issue in the light of the decisions of the Hon'ble Supreme Court and take an appropriate decision.

Subject to this, nothing survives in the Petition. The Inquiry Officer shall proceed with the inquiry as expeditiously as possible. The Petition is accordingly disposed of with no Orders as to costs. All the rival contentions of the parties on merits are expressly kept open.

C. V. BHADANG, J.

F. M. REIS, J.

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